

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 18-4013 FMO (AFMx)	Date	August 15, 2018
Title	Richard Powell v. Chung Sim Kim, et al.		

Present: The Honorable Fernando M. Olguin, United States District Judge

Vanessa Figueroa

None Present

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None Present

None Present

Proceedings: (In Chambers) Order to Show Cause Re: Service of Process

On May 14, 2018, plaintiff Richard Powell ("plaintiff") filed a Complaint against defendant Chung Sim Kim dba Golden Burger ("Kim" or "defendant"), asserting violations of the Americans with Disabilities Act, 42 U.S.C. §§ 12101, et seq., and the Unruh Civil Rights Act, Cal. Civ. Code §§ 51, et seq., as well as other claims. (See Dkt. 1, Complaint at ¶¶ 18-40). On August 9, 2018, plaintiff responded to the court's Order to Show Cause, which required plaintiff to show cause why this action should not be dismissed due to plaintiff's failure to serve defendant with the summons and complaint. (See Dkt. 10, "Response"; Dkt. 9, Court's Order of August 1, 2018).

In his Response, plaintiff states that based on "circumstances out of the control of Plaintiff, [he] has been unable to timely serve the summons and complaint package[.]" (See Dkt. 10, Response at 2). Plaintiff adds that he sent "work order forms to attorney service, Interstate Attorney Service" but Interstate has been "unable to serve at the most recent business address." (Id.). Plaintiff does not provide the precise date on which the work order form was sent, or the dates, if any, on which service has been attempted. (See, generally, id.). Plaintiff's Response is insufficient to establish that plaintiff has been diligent in attempting to serve defendant. In any event, the court will, on its own motion, give plaintiff one last extension of time to serve defendant.

Based on the foregoing, IT IS ORDERED that:

1. Plaintiff shall, no later than **September 11, 2018**, serve defendant with the summons and Complaint.
2. No later than **September 14, 2018**, plaintiff shall file a proof of service reflecting service on defendant.
3. Plaintiff is admonished that failure to file a proof of service by the September 14, 2018, deadline may result in the dismissal of the action for failure to timely serve the summons and complaint and/or for failure to prosecute or to comply with court orders. See Fed. R. Civ. P. 4; Fed. R. Civ. P. 41(b); Link v. Wabash Railroad Co., 370 U.S. 626, 629-30, 82 S.Ct. 1386 (1962).

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4. The Order to Show Cause (**Document No. 9**) is **continued** pending further order of the court.

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vdr